

ARTICLE III
Section 3-170
WATER RESOURCE PROTECTION AREA
(11/13/02)

Section 3-170.1 Purposes of Ordinance

For the purpose of this Ordinance, there are hereby established certain Water Resource Protection Areas consisting of Public Wells. Zone I and Zone II Recharge Areas as defined in Section 3-170.2, and other aquifer recharge areas, as delineated on the map entitled: “Water Resource Protection Districts, City of Westfield”. This map is hereby made a part of this Zoning Ordinance and is on file in the offices of the City Clerk and Community Development. The Water Resource Protection Ordinance shall be considered as overlaying other existing zoning districts.

The purposes of the Water Resource Protection Ordinance are:

1. to promote the health, safety and general welfare of the community;
2. to protect, preserve and maintain the public water supply and the Zone I and Zone II and other aquifer recharge areas as delineated on the City’s “Water Resource Protection District” maps which provide water to public wells within the City and neighboring communities;
3. to conserve the natural water resources within the City of Westfield; and
4. to prevent the pollution of public wells within the City of Westfield, and their aquifer recharge areas.

3-170.2 Definitions

Aquifer – Geological formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

Groundwater – All water found beneath the surface of the ground.

Hazardous Waste – A waste which is hazardous to human health or the environment as has been designated by the Regulations in 310 CMR 30.130 adopted pursuant to the Massachusetts Hazardous Waste Management Act, M.G.L. Chapter 21C.

Impervious Surfaces – Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

Pre-existing Uses Conforming to this Article III, Section 3-170 Uses commenced upon compliance with the requirements of Article III, Section 3- 170 Water Resource Protection Area.

Pre-Existing Uses Non-Conforming to this Article III, Section 3-170 Uses commenced prior to the adoption of City of Westfield Ordinance Number 900 or otherwise not in conformity with the requirements of Article III-3-170 Water Resource Protection Areas. To be distinguished from Non-Conforming Uses.

Wastewater Treatment Works Subject to 314 CMR 5.00 – Any wastewater treatment plants or works, including community septic systems, which require a groundwater discharge permit from the Massachusetts Department of Environmental Protection.

Waste – Waste means any discard material, or any material otherwise generated or produced as a by-product of any activity which is not intended for further use by the generator or producer.

Zone I Recharge Area- That circle of a 400 foot radius extending around the wellhead of a public drinking water well with the wellhead at its center and including all land within the boundaries of said circle.

Zone II Recharge Area – That area of any aquifer which contributes water to a public drinking water well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield, with no recharge from precipitation). It is bounded by the groundwater divides which result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, Zone II shall extend all gradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide a contact with till or bedrock or a recharge boundary). Zone II Delineation as approved by the Commonwealth of Massachusetts Department of Environmental Protection known as the “Barnes”, “Southampton”, “Great Brooks” and “Northwest Road” Aquifers. (11/13/02)

3-170.3 Scope of Authority

The Water Resource Protection Ordinance is an overlay district and is superimposed on the other districts established in the “Westfield Zoning Ordinance”. All uses, dimensional requirements and other provisions of the Zoning Ordinance are applicable and will remain in effect except where the Water Resource Protection Ordinance imposes greater restrictions or requirements. Any use not permitted in the underlying district will remain prohibited. To the extent that a Water Resource Protection Ordinance is more restrictive than the underlying district, the requirements of the water resource ordinance shall control.

3-170.4 Prohibited Uses

The following uses or commercial enterprises are prohibited within the Water Resource Protection District:

1. Business, commercial and industrial uses, not agricultural, which generate, treat store or dispose of hazardous wastes and/or acutely hazardous wastes, including but not limited to metal or jewelry plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning, photography laboratories, hazardous materials processing or transfer, asphalt plants,

plastics manufacturing, laboratory operations, stables, kennels, feedlots and auto body repair, except for the following:

- a. For all land within the Water Resource Protection district (except for the Zone II Recharge Areas for wells, 03G, 04G, 05G and 06G) small quantity generators of hazardous waste (not specifically prohibited from below) as defined by 310CMR30.00 as amended, and very small quantity generators of hazardous waste (not specifically prohibited below) as defined in 310 CMR 30.00 as amended, may be allowed by Special Permit in accordance with Section 1.9 of this ordinance.
 - b. For the Zone II Recharge Areas for wells 03G, 04G, 05G and 06G only, very small quantity generators of hazardous waste (not specifically prohibited below) as defined in 310 CMR 30.00 as amended, may be allowed by Special Permit in accordance with Section 1.9 of this ordinance. Small quantity generators of hazardous waste, as defined by 310 CMR 30.00 as amended, are prohibited.
 - c. treatment works for the remediation of contaminated water, which are approved by Mass. Department of Environmental Protection and designed in accordance with 314 CMR 5.00 as amended. (11/13/02)
2. Business, commercial or industrial uses, not agricultural, which dispose of process wastewater on site.
 3. Motor vehicle and boat service and repair business, car washes, motor vehicle gasoline sales, automotive body repair shops, and commercial petroleum product storage facilities.
 4. Solid waste landfills, dumps, auto recycling, auto graveyards, junk and salvage yards, landfilling or storage of sludge and septage.
 5. Underground storage of petroleum products, including, without limitation, gasoline, waste oil, diesel fuel, and any other liquid hydrocarbon. Except as otherwise allowed herein.
 6. Outdoor storage of salt, de-icing materials, pesticides, and herbicides.
 7. Dumping or disposal of any hazardous material on the ground, in water bodies or in septic systems. This includes cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane.
 8. Stock piling and disposal of snow ice removed from highways and streets located outside the Water Supply District that contains sodium chloride, calcium chloride, chemically treated abrasives, and any and all other chemicals used for snow and ice removal.
 9. Wastewater treatment works subject to a groundwater discharge permit under 314 CMR 5.00 except the following:

- a. the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s)
 - b. the replacement of an existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s), and;
 - c. treatment works designed for the treatment of contaminated ground or surface waters subject to 314 CMR 5.00
10. Residential, commercial, business, or industrial uses within Zone I of any municipal water supply well.
11. Multifamily residence uses which are not served by the municipal sewer system.
12. any use on a parcel with a lot size of less than 2 acres (87,120 square feet), regardless of whether it is serviced by public water and/or public sewer or not.” (01-02-03)
13. Commercial earth removal (as defined in Section 5-20) (01-19-06)
14. Processing, reprocessing, remanufacturing, reclamation and/or recycling of construction (including but not limited to road and bridge) materials, building materials and/or demolition materials such as, but not limited to, lumber, asphalt, brick and concrete. (01-19-06)

3-170.5 Permitted Uses

The following uses are permitted within the Water Resource Protection District, provided that all necessary permits, orders or approvals required by local, state, or federal law are also obtained.

- 1. Conservation of soil, water, plants, and wildlife.
- 2. Outdoor recreation, nature study, boating and fishing.
- 3. Foot, bicycle and/or horse paths, and bridges.
- 4. Single family residential development as permitted in the underlying district provided that, for areas in the Water Supply Protection Area, the minimum lot size shall be 2 acres (87,120 square feet), regardless of whether it is serviced by public water and/or public sewer or not.” (01-02-03)
- 5. Agriculture, horticulture, floriculture provided that the storage of agricultural chemicals, in quantities greater than normal household use, including but not limited to: fertilizers, herbicides, pesticides, manure or other leachable materials in compliance with the requirements found in 310 CMR 22.21(2) (b) 3 and 4

6. Forestry and nursery uses.
7. Day Care Center, Family Day Care Homes and school age child care programs as defined in M.G.L. Chapter 40A
8. Structures for educational or religious purposes.
9. The replacement of underground storage tanks provided that all such replacements are of no greater volume, and are in compliance with the City of Westfield Underground Storage Tank Ordinance (Ordinance #1082).

3-170.6 Special Permit Uses

The following uses are permitted by Special Permit within the Water Resource Protection District, subject to the approval of the designated Special Permit Granting Authority.

1. All businesses, commercial, and industrial activities permitted in the underlying district either by right or by Special Permit, provided that such activity is not prohibited in section 3-170.4. (10/07/04)

For uses that are permitted by right in the underlying district, the Use Special Permit required by this section shall be issued by the Planning Board. (10/07/04)

For uses requiring a Use Special Permit in the underlying district, the Special Permit required by this section shall be issued by the Special Permit Granting Authority for the underlying district and shall be included as a part of that Use Special Permit Application. Any approval, findings and conditions required under Section 3-170.6, number 2 shall be in addition to and incorporated into the findings and conditions of the underlying district's Use Special Permit. (10/07/04)

2. The rendering impervious of great than 15% of the area provided that a system for artificial recharge of precipitation is developed. The management of storm water and any artificial recharge systems developed shall be designed so as not to result in the degradation of groundwater.
 - a. For business, commercial or industrial uses, a storm water management plan shall be developed which provides for the artificial recharge of precipitation to groundwater, where feasible. Recharge shall be attained through site design that incorporates natural drainage patterns and vegetation, and through the use of storm water infiltration basins, infiltration trenches, porous pavement or similar systems. All infiltration practices shall be preceded by oil, grease, and sediment traps or other best management practices to facilitate removal of contamination.
 - b. For residential uses, recharge shall be attained through site design that incorporates natural drainage patterns and vegetation. To the extent possible, storm water runoff from rooftops, driveways, roadways and other impervious surfaces shall be routed

through areas of natural vegetation and/or devices such as infiltration basins, infiltration trenches or similar systems.

Infiltration practices shall be utilized to reduce runoff volume increases to the extent possible as determined in accordance with infiltration standards and specifications established by the Soil Conservation service. A combination of successive practices may be used to achieve the desired control requirements. Justification shall be provided by the person developing land for rejecting each practice based on site conditions. Any and all recharge areas shall be permanently maintained in full working order by the owner. Provisions for maintenance shall be described in the storm water management plan. (Planning Board)

3. The above ground storage of all hazardous materials and petroleum products. However, a Special Permit shall not be required for storage of liquid petroleum products of any kind which are: stored in 5 gallon or less approved portable containers and used for normal residential or commercial grounds maintenance; used for the heating of single family or two-family residence provided such storage is in a free standing container located within a building or in a free standing container with protection adequate to contain a spill the size of the total capacity of the container and is otherwise in compliance with the Massachusetts Fire Safety Code (527 CMR) (Planning Board) (11/13/02)
4. Excavation for removal of earth, loam, sand, gravel and other soils or mineral substances provided that such excavation shall not extend closer than five (5) feet above the historical high groundwater table (as determined from on-site monitoring wells and historical water table fluctuation data compiled by the United States Geological survey, whichever is higher). A monitoring well shall be installed by the property owner to verify groundwater elevations. This section shall not apply to excavations incidental to permitted uses, including but not limited to providing for the installation or maintenance of structural foundations, utility conduits or on-site sewage disposal. (11/13/02)
5. With respect to pre-existing uses conforming to this Article III, Section 3-170, any of the following changes in an existing business, commercial or industrial use:
 - a. increase in generation of hazardous waste above quantities permitted in the Special Permit for the use;
 - b. increase in impermeable surfaces to greater than 15% of lot area;
 - c. change of use;
 - d. enlargement in the building footprint greater than 25% of the existing footprint. (Planning Board)
6. With respect to pre-existing uses non-conforming to this Article III, Section 3-170, any of the following changes in an existing business, commercial or industrial use:
 - a. increase in generation of hazardous wastes above quantities permitted in the Special Permit for use;
 - b. increase in impermeable surfaces to greater than 15% of lot area;
 - c. change of use;
 - d. enlargement in the building footprint greater than 25% of the existing footprint. (Planning Board)

3-170.5 Special Permit Additional Requirements

In addition to the requirements of M.G.L., Chapter 40A, Section 9 and the requirements of Article I, Section 1-50 of the Westfield Zoning ordinance, these additional requirements shall apply to all Special Permit Applications.

1. The applicant will submit a complete list of chemicals, pesticides, and fuels to be stored on the premises, except when the quantities are so small as to be considered for normal household use.
2. The applicant will submit a complete list of all hazardous materials. Further, a hazardous material management plan will be field and it will include the following:
 - a. provisions to protect against the discharge of hazardous materials due to spillage, accidental damage, corrosion, leaking, or vandalism, including spill containment, and clean up procedures;
 - b. provisions for indoor, secured storage of hazardous materials.
3. The applicant will submit evidence of compliance with the Regulations of Massachusetts's Hazardous Waste Management Act 310 CMR 30 and information on anticipated hazardous waste generation rates. Copies of Massachusetts Hazardous Waste reporting forms shall be made available to the Westfield Zoning Enforcement Officer upon request.
4. Provisions to control soil erosion and sedimentation.
5. Drainage recharge features to prevent loss of recharge.
6. All projects shall be reviewed by the Permit Granting authority as to the potential for groundwater contamination. If the Permit Granting Authority after consultation with the Board of Health, Water Commission or any other entity that deems appropriate determines that the project use has potential to pollute groundwater, it shall prescribe and appropriate groundwater management program. This program may include the installation of groundwater monitoring wells and a regular testing procedure. The Permit Granting Authority reserves the right to withhold any and all permits until such groundwater management programs have been approved.

3-170.6 Special Permit Additional Procedures

The additional procedures will apply to all Special permit applications in the Water Resource Protection District.

1. The Planning Board will distribute copies of the Special Permit application to the Board of Health, the Conservation, the Water Commission, and the City Engineer. Each Board or Commission will review the application and submit written comments to the Planning Board. Any written comments must be made within 35 days of distribution of the application.

2. The Planning Board may grant the Special Permit upon the finding that the proposed use meets the following standards:
 - a. the proposed use is in harmony with the intent of this district and will not interfere with water resource protection;
 - b. the proposed use is appropriate to the natural topography, soils, and other characteristics of the site;
 - c. the proposed use will not, during construction or thereafter, have an adverse impact on the City water supply.
 - d. Notwithstanding the foregoing, no Special Permit will be issued in any Zone I Recharge Area if a grant of such Special Permit would result in a use prohibited by the Department of Environmental Protection Drinking Water Regulations (310 CMR 22.21).

3-170.7 Performance Standards

All uses, whether allowed by Special Permit or by right, must meet the performance standards herein:

1. Sodium chloride for ice control shall be used at the minimum salt to sand ratio which is consistent with the public highway safety requirements, and its use shall be eliminated on roads which may be closed to the public in winter.
2. The storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads shall be covered and located in a paved surface with berms, or within a structure designed to prevent the generation and escape of contaminated run-off.
3. Fertilizers, pesticides, herbicides, lawn care chemicals, or other leachable materials shall be used in accordance with the Lawn Care Regulations of the Massachusetts Pesticide Board, 33 CMR 10.03 (30,31), as amended, with manufacturer's label instructions and all other necessary precautions to minimize adverse impacts on surface and groundwater.
4. The storage of commercial fertilizers and soil conditioners shall be within structures designed to prevent the generation an escape of contaminated run-off or leachate.
5. To extent feasible, all new permanent animal manure storage areas shall be covered and/or contained to prevent the generation and escape of contaminated runoff or leachate.
6. All hazardous materials, as defined in M.G. L. Chapter 21 E, must be stored either in a free standing container within a building, or in a free standing container above ground level with protection to contain a spill. A tertiary containment system, with the outer containment designed and operated to contain the container or tank's total storage volume plus an additional 10% must be used. (11/13/02)

7. For business, commercial, and industrial uses, to the extent feasible, run-off from impervious surface shall be recharged on the site by storm water infiltration basins or similar systems covered with natural vegetation. Such run-off shall not be discharged directly to rivers, streams, or other surface water bodies. Dry wells shall be used only where other methods are infeasible. All such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. All recharge areas shall be permanently maintained in full working order by the owner(s). Infiltration systems greater than 3 feet deep shall be located at least 100 feet from drinking water wells, and shall be situated at least 10 feet down-gradient and 100 feet up-gradient from building foundations to avoid seepage problems. Infiltration basins and trenches shall be constructed with a three foot minimum separation between the bottom of the structure and maximum groundwater elevation.
8. In accordance with the State Plumbing Code, all vehicle maintenance facilities must have floor drains, unless they receive a variance from the State Plumbing Board, which must be connected to a municipal sewer system or to a state-approved holding tanks in unanswerd areas. All other facilities, which use, store or maintain hazardous materials or wastes must, with state approval, seal floor drains or connect them to a sewer system or holding tank.

3-170.8 Pre-existing uses non-conforming to this Article 3-170

Pre-existing uses non-conforming to this Article III, Section 3-170 which are lawfully existing, begun or in receipt of a building or special permit prior to the first publication of notice of public hearing for this ordinance amendment may be continued.

Where an existing use is both a non-conforming use and a pre-existing use non-conforming to this Article III, Section 3-170, an expansion, alteration or extension of such use may require both a Special Permit from the Zoning Board of Appeals under Article IV and a special permit under this Article III, Section 3-170, from the Planning Board. In such event, the applicant shall seek Article IV board of Appeals approval first. This requirement shall not, however, preclude the Board of Appeals and the Planning Board from conducting a joint public hearing on the special permit applications provided, however, each such Board shall be required to make its own separate findings and decision pursuant to their respective responsibilities under the separate articles.

Article III, Section 3-170.6 number 1
(10-07-04)

Article III, Section 3-170.4 Added number 13
Article III, Section 3-170.4 Added number 14
(01-19-06)